

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

KRISTA DONYEL WILLIAMS,

Defendant-Appellant.

UNPUBLISHED
February 21, 2003

No. 237882
Ingham Circuit Court
LC No. 00-076229-FH

Before: Kelly, P.J., and White and Hoekstra, JJ.

PER CURIAM.

Defendant appeals as of right her convictions of embezzlement by agent of money or property having a value of \$1,000 or more but less than \$20,000, MCL 750.174(4)(a),¹ and embezzlement by agent of money or property having a value of more than \$100, MCL 750.174,² entered after a jury trial. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Defendant worked as an administrative secretary in the City of Lansing's Building Safety and Code Compliance Office (BSCCO). She had access to funds received from building permit applicants. Defendant frequently prepared the daily deposit of cash and checks and took it to the Office of the City Treasurer.

Specific instances raised suspicion regarding defendant's handling of deposits. On Monday, October 12, 1998, \$245 in cash was found to be missing from the October 9, 1998 deposit. Defendant had not prepared that deposit, but had worked later than usual on October 9, 1998. In December 1999, the management of the BSCCO concluded that defendant had taken possession of the December 1, 1999 deposit, which contained \$360.85 in cash, but that she had not delivered it to the treasurer's office. The deposit was never located. Defendant was suspended on December 9, 1999, and her employment was later terminated. Employees who cleaned out defendant's desk discovered the materials for a deposit from September 24, 1998. A

¹ The information listed the time period for this offense as January 1, 1999 through December 28, 1999.

² The information listed the time period for this offense as January 1997 through December 1998.

total of \$552 in cash was missing from the deposit. Time records indicated that defendant did not work on that date; however, defendant was responsible for preparing her own time card.

A fraud investigation revealed that during the period 1997 through 1999 defendant made more deposits than all other employees combined; however, her deposits contained significantly less cash per deposit and in total. Defendant's cash average was \$21.15 per deposit, while other employees had a cash average of \$181 per deposit. Defendant had a cash register tape in 13% of her deposits, while other employees had a cash register tape in 82% of their deposits. In 1998, defendant took in \$1,416 in 141 deposits, while in 1999 all other employees took in \$29,000 in 175 deposits. In 1999 the BSCCO had a shortfall of \$124,479 between monies received and deposits made, with \$13,271 attributed to cash.

Records from the Soaring Eagle Casino showed that on seven occasions defendant gambled at the casino on days on which she had absented herself from work due to illness or some other reason. On sixteen occasions defendant gambled at the casino within three days of preparing a deposit for the BSCCO. Fifteen of those sixteen deposits did not contain cash. On nine occasions defendant gambled at the casino within two days of preparing a deposit.

Defendant denied taking cash from any deposit she prepared for the BSCCO. She admitted that she gambled at the casino, but denied that she was present at the casino on the dates indicated in the fraud investigation report.

The jury found defendant guilty as charged. The trial court sentenced defendant to serve concurrent terms of five years' probation, with the first year in jail.

In reviewing a sufficiency of the evidence question, we view the evidence in a light most favorable to the prosecution to determine whether a rational trier of fact could conclude that the elements of the offense were proven beyond a reasonable doubt. We do not interfere with the jury's role of determining the weight of the evidence or the credibility of witnesses. *People v Wolfe*, 440 Mich 508, 514-515; 489 NW2d 748, amended 441 Mich 1201 (1992); *People v Milstead*, 250 Mich App 391, 404; 648 NW2d 648 (2002). A trier of fact may make reasonable inferences from evidence in the record, but may not make inferences completely unsupported by any direct or circumstantial evidence. *People v Vaughn*, 186 Mich App 376, 379-380; 465 NW2d 365 (1990).

The elements of embezzlement by an agent are: (1) the money belonged to the principal; (2) the defendant had a relationship of trust with the principal as an agent or employee; (3) the money came into the defendant's possession because of the relationship of trust; (4) the defendant dishonestly disposed of or converted the money to his or her own use or secreted the money; (5) the act was without the consent of the principal; and (6) at the time of the conversion, the defendant intended to defraud the principal. *People v Collins*, 239 Mich App 125, 131; 607 NW2d 760 (1999).

Defendant argues that the evidence produced at trial was insufficient to support her convictions. We disagree. Circumstantial evidence and the reasonable inferences arising therefrom can constitute satisfactory proof of the elements of a crime. *People v Carines*, 460 Mich 750, 757; 597 NW2d 130 (1999). The missing money was the property of the BSCCO, in which defendant worked. Defendant had access to BSCCO funds, and frequently compiled

deposits. A total of \$245 in cash was found to be missing from the October 9, 1998 deposit. Defendant made a cash payment of \$400 on her land contract on October 9, 1998. A total of \$552 in cash was missing from the September 24, 1998 deposit, materials from which were found in defendant's desk. The December 1, 1999 deposit containing \$360.85 in cash was never made. The jury was entitled to accept testimony from a BSCCO employee that defendant took charge of that deposit and offered to take it to the treasurer's office. *Milstead, supra*.

The data compiled in the fraud investigation showed that in 1999 the BSCCO had a cash shortfall of \$13,271. Defendant made thirty-five deposits during 1999, of which three contained cash register tapes and cash totaling \$84. All other employees made a total of 175 deposits during 1999, of which 160 contained cash, totaling \$29,000. The evidence that in 1999 the BSCCO had a large cash shortfall, coupled with the evidence that defendant turned in a cash register tape with only three of thirty-five deposits during that year, supported an inference that defendant took cash from the deposits. *Carines, supra*.

The evidence regarding specific missing deposits in 1998 and 1999, coupled with the evidence that from 1997 through 1999 defendant's deposits contained significantly less cash than the deposits made by other employees, and that defendant consistently gambled at the casino shortly after preparing deposits that contained no cash, supported an inference that defendant converted the BSCCO's money to her own use without consent and by doing so intended to defraud her employer. *Collins, supra*. Viewed in a light most favorable to the prosecution, the evidence, both direct and circumstantial, was sufficient to support defendant's convictions. *Wolfe, supra; Carines, supra*.

Affirmed.

/s/ Kirsten Frank Kelly
/s/ Helene N. White
/s/ Joel P. Hoekstra